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Attorney for Plaintiff KEVIN N. GEORGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEVIN N. GEORGE

Plaintiff,

V.

UNITED STATES OF AMERICA,

Defendant.

Case No.:

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff KEVIN N. GEORGE (“Plaintiff”) files this Complaint against the UNITED STATES OF AMERICA (“Defendant”), and in support thereof, would respectfully show as follows:

JURISDICTION AND VENUE

1. This action arises under 26 U.S.C. §7422. The Court has jurisdiction of this matter under 28 U.S.C. §1346(a)(1).

2. Venue is proper under 28 U.S.C. §1391(e) because plaintiff's residence is in this judicial district and the Defendant is the United States.

THE PARTIES

3. Plaintiff KEVIN NICHOLAS GEORGE is a taxpayer residing in San Francisco, California, as of the date of this filing.

4. Plaintiff's address for tax purposes is as follows: KEVIN N. GEORGE, 1655 Grove Street, San Francisco, CA 94117.

5. Defendant is the United States.

FACTUAL ALLEGATIONS

6. This case arises under the laws of the United States for a refund of income taxes erroneously and illegally withheld by the Internal Revenue Service (the “Service”) for tax years 2022 and 2023.

7. Plaintiff filed a timely income tax return, Form 1040, for tax year 2022 with the Service claiming a refund due of \$29,351.00. A redacted copy of the filed return is attached hereto as **Exhibit A.**

8. Plaintiff filed a timely income tax return, Form 1040, for tax year 2023 with the Service claiming a refund due of \$27,205.00. A redacted copy of the filed tax return is attached hereto as **Exhibit B.**

9. Each of the filed tax returns constituted a claim for refund.

10. Defendant's internal system acknowledges that Plaintiff is due a refund in the amount of \$28,595.00 for tax year 2022 and \$27,205.00 for tax year 2023. Attached hereto are Plaintiff's Account Transcripts from the Service reflecting the refunds due for tax year 2022 (**Exhibit C**) and tax year 2023 (**Exhibit D**).

11. Defendant has illegally and erroneously failed to pay over the refunds due to Plaintiff.

12. In addition, Defendant inappropriately and without cause threatened to impose a “frivolous position” penalty of \$5,000 against Plaintiff for allegedly taking an unmeritorious position on the 2022 income tax return. Attached hereto as **Exhibit E** is a copy of LTR 3176C received in response to the 2022 claim for refund.

13. Undersigned counsel for Plaintiff made multiple attempts to investigate the source of the refund denial and the threatened assertion of the ‘frivolous position’ penalty but without success. The phone number listed on LTR 3176C as a contact number offers only a recording without a live agent for help. There is otherwise no correspondence or indication from the Service explaining which position on the 2022 tax return is ‘frivolous.’

14. Undersigned counsel for Plaintiff has made a diligent effort to determine if the filed 2022 or 2023 income tax return contained a frivolous position. However, both tax returns contain ordinary and standard items and contain no tax position which could arguably be without merit.

15. Defendant has also preemptively frozen Plaintiff's 2024 refund even though a tax return for tax year 2024 is not yet due and has not been filed.

16. More than six months have elapsed since the filing of the claims for refund for tax years 2022 and 2023 without action from the Internal Revenue Service.

17. No part of the amount claimed by Plaintiff has been refunded to Plaintiff and no part thereof has been credited against any other tax liability to Plaintiff.

18. As grounds for recovery, Plaintiff incorporates by reference the statements contained in the claims for refund.

19. Defendant has unlawfully refused to refund overpaid taxes for tax years 2022 and 2023 as set forth above.

20. Plaintiff is entitled to a refund for tax years 2022 and 2023 as claimed on the respective claims for refund, Exhibits A and B.

CLAIM FOR RELIEF

21. Plaintiff realleges and incorporates by reference as though fully set forth herein, paragraphs 1 through 20 of this Complaint.

22. Under 26 U.S.C. §6532, no suit pursuant to 26 U.S.C. §7422 shall begin prior to the expiration of 6 months from the date of filing the claim for refund. Plaintiff has satisfied this procedural prerequisite. Claim for refund was filed with the Service on or before April 15, 2023 for tax year 2022. Claim for refund was filed with the Service on or before April 15, 2024 for tax year 2023. More than six months have elapsed since the filing of both claims.

23. By the acts and omissions alleged herein, Defendant has violated Plaintiff's rights by erroneously and illegally withholding his tax refunds for 2022 and 2023, and by preemptively freezing his anticipated tax refund for tax year 2024.

24. Plaintiff is entitled to a judgment requiring Defendant to refund the overpaid tax.

DEMAND FOR JURY TRIAL

25. Plaintiff demands jury trial.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully prays that this Court enter judgment in his favor and against Defendant, containing the following relief:

1. That Defendant refund to Plaintiff the amount of \$55,800.00, together with any and all additional payments that may either be remitted by Plaintiff to the Service as of or subsequent to the date of this Complaint or any monies due to Plaintiff which may be applied by the Service towards penalties, plus interest as provided by law;
2. That Defendant unfreeze Plaintiff's anticipated 2024 income tax refund.
3. Such other additional relief as this Court may deem appropriate and just.

Dated: March 11, 2025

Respectfully submitted,

Sandeep Singh
Attorney for Plaintiff

Sandeep Singh
Attorney for Plaintiff